

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA,

v.

MOSSIMO GIANNULLI and LORI
LOUGHLIN,

Defendants.

Case No. 19-cr-10080

**DEFENDANTS MOSSIMO GIANNULLI AND LORI LOUGHLIN'S
PROPOSED *FOSTER* HEARING QUESTIONS**

I. INTRODUCTORY MATTERS

- Has either of you taken any alcohol, drugs, or medications that might impair your ability to understand today's hearing?
- Do you have any medical conditions that might impair your ability to understand today's hearing?
- Is there anything else that might impair your ability to understand what is happening today?
- Is your mind clear today?
- Mr. Giannulli, are you currently represented in this case by Latham & Watkins LLP; Donnelly, Conroy & Gelhaar, LLP; and by Mark Beck?
- Ms. Loughlin, are you currently represented in this case by Latham & Watkins LLP and by Scheper Kim & Harris LLP?

II. LATHAM JOINT REPRESENTATION

- Do you both understand that the Government intends to try you jointly in this case, along with other defendants?
- Do you both understand that your joint representation by Latham thus carries inherent risks?

- Latham owes you each a duty of undivided loyalty and confidentiality, but it is hypothetically possible that a conflict could develop between the two of you in this case. Do you understand that, if such a conflict did develop, this would mean Latham could not advise or represent either of you adversely to one another, and would likely have to withdraw from representing one or both of you?
- Do you also understand that your individual communications with Latham are not privileged from one another?
- Do you both understand that you each have a right to individual counsel?
- Have you each discussed these joint-representation risks, and your right to counsel, with your attorneys at Latham?
- Mr. Giannulli, have you discussed these joint-representation risks, and your right to counsel, with your attorneys at Donnelly Conroy and with Mark Beck?
- Ms. Loughlin, have you discussed these joint-representation risks, and your right to counsel, with your attorneys at Scheper Kim?

III. DONNELLY CONROY JOINT REPRESENTATION

- Mr. Giannulli, are you aware that Donnelly Conroy represents Davina Isackson, a witness for the Government in this case, as well as Peter Jan Sartorio, a defendant in a related case, and that Donnelly Conroy represents another party of interest related to this case?
- Mr. Giannulli, do you also understand that Donnelly Conroy created an “ethical wall” between any attorneys and staff working on your matter and any attorneys and staff working on the matters of Ms. Isackson, Mr. Sartorio, and related parties?
- Do you understand that this means those attorneys and staff are prohibited from discussing their work on these matters with one another?
- Do you also understand that this means attorneys at Donnelly Conroy may know or learn information related to your case that they cannot disclose to you?
- If Ms. Isackson, Mr. Sartorio, or another party represented by Donnelly Conroy were to testify, Donnelly Conroy would not be able to cross-examine those witnesses. Nor would Donnelly Conroy be able to subpoena them. Do you understand that Donnelly Conroy’s representation of these other parties can thus limit Donnelly Conroy’s ability to represent you?
- Mr. Giannulli, have you discussed these risks, and your right to counsel, with your attorneys at Donnelly Conroy?

- Have you also discussed these risks, and your right to counsel, with your attorneys at Latham and with Mark Beck?

IV. CONCURRENT REPRESENTATION

- Are you both aware that, until recently, Latham also represented the University of Southern California (USC), which is an alleged victim in this case?
- Do you both understand that Latham created an “ethical wall” between any attorneys and staff working on your matter and any attorneys and staff who worked on USC matters, and that this means the attorneys and staff working on your case are prohibited from discussing your case or USC’s matters with one another?
- Do you understand that this also means any Latham files or documents related to your representation and those related to USC’s representation are accessible only to the people assigned to those matters?
- Do you understand that, while Latham represented USC, attorneys or staff at Latham may have learned information that they cannot disclose to you?

V. WAIVER

- I have explained to you both some of the risks related to your joint representation by Latham and related to Latham’s former representation of USC, and the risks related to Mr. Giannulli’s representation by Donnelly Conroy. Do you both understand these risks?
- Do you both also understand that there may be other, unforeseen issues that could arise from these representations that I have not mentioned today?
- Do you have any questions for me?
- Do you wish to have a closed, private hearing to discuss these matters with me?
- Do you wish to take a break and discuss these matters with one or more of your attorneys?
- Having considered the risks, do you each still wish to have Latham represent you?
- Mr. Giannulli, having considered the risks of Donnelly Conroy’s representation of you, do you still wish to have Donnelly Conroy represent you?

Dated: August 23, 2019

Respectfully submitted,

/s/ Sean M. Berkowitz

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CERTIFICATE OF SERVICE

I certify that the foregoing document was filed with the Clerk of the United States District Court for the District of Massachusetts via the CM/ECF system, which will notify all participants in the case who are registered CM/ECF users; these are identified on the Notice of Electronic Filing. Paper copies will be sent via first-class mail on August 23, 2019, to those participants identified as not being registered.

/s/ Sean M. Berkowitz
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